APPENDIX.

I.

Testimony of Druggists.

Pharmacists and druggists, residing at Union City, Tennessee, where Dr. W. A. Nailling, convicted of a violation of the Federal Narcotic laws, owned and operated a hospital and practiced his profession, testified on the trial of the case, and we hereinafter quote extracts from their testimony as the same appears in the record.

GOVERNMENT WITNESSES.

(1) Extract from the testimony of ARTHUR M. HOLMES, a graduate pharmacist and an employee of the Mayes Drug Store, located at Union City, Tennessee:

> "Witness stated that he had been a pharmacist in Union City for three and one-half years at the Mayes Drug Store, during which period of time he had filled quite a number of prescriptions for all the doctors in Union City, including Dr. Nailling, among which were quite a number of prescriptions calling for five grains of morphine sulphate, issued by the doctors of Union City. There was nothing unusual in the prescriptions which were issued by Dr. Nailling. They were not out of line with the prescriptions being filled for other doctors. Did not remember who first inspected the file of prescriptions, but two narcotic agents last summer did do so, after the filling of the prescriptions for Cooksey and Dezonia." (R. 45).

(2) Extracts from the testimony of O. J. TATUM, a retail druggist at Union City, Tennessee:

> " 'Q. At the time this so-called Mr. Anderson pre-

sented you these prescriptions issued by Dr. Nailling, there was nothing irregular or unusual about that from your standpoint?

A. Just regular prescriptions.' (R. p. 44.)

Witness had known Dr. Nailling ever since he had been in Union City; knew that he operated a hospital; performed quite a bit of surgery, and had an extensive practice. Witness learned the true identity of the party who presented the prescriptions next to the last time he came to his store, and thereafter Mr. Reinert went through his files for a period of several hours, and later, Mr. Reinert and Mr. Hoke, Narcotic Inspectors, looked over all the narcotic prescriptions, but took with them only those issued by Dr. Nailling. No one else but the Narcotic Agents ever investigated his files. Witness didn't know positively on October 15, 1940, that 'Anderson' was a narcotic agent, but thought he was such." (R. 51-52.)

(3) Extract from the testimony of WALTER MAYES, operator of a retail drug store at Union City, Tennessee:

"Witness had been in the drug business in Union City for a number of years, under the name of Mayes Drug Store; he was raised in Union City, and had known Dr. Nailling all his life, and knew Dr. Nailling had an extensive practice, but did not know the amount of practice, as the majority of his prescriptions went to another drug store. Dr. Nailling had a hospital. Witness had filled prescriptions in Union City for all the doctors; all the doctors issued narcotic prescriptions, and witness had filled prescriptions for five grains of morphine, after which the prescriptions were filed away and kept as long as two years, for the purpose of inspection." (R. 88-89.)

(4) Extract from the testimony of EDWIN McADOO, operator of a retail drug store at Troy, Obion County, Tennessee:

> "Witness had been in business in Troy a little over 40 years at that one place, and in the drug business all that time, having filled many hundreds of narcotic prescriptions. There was nothing unusual to excite your suspicion about these prescriptions he had been examined about. He had gotten similar prescriptions from other doctors under similar circumstances frequently, and it was not uncommon for other doctors to issue that type of prescription for that type of patient." (R. 94.)

DEFENDANT'S WITNESSES

(1) Extract from the testimony of LEON EVANS, proprietor of a drug store at Union City, Tennessee:

> "Witness testified that he was 66 years of age, had been a registered, licensed pharmacist since 1898, although not a graduate of any school; was the proprietor of Evans Drug Store, located in the building under Dr. Nailling's hospital; had been for six years and had been during all them he had been in Union City. Witness had filled thousands of prescriptions of various doctors, quite a number for Dr. Nailling, and from his experience as a druggist, it was not uncommon or unusual for him to fill prescriptions for twenty quarter-grains of morphine sulphate, issued by reputable doctors, and he had filled a number of these for doctors other than Dr. Nailling since he had been in Union City." (R. 213-214.)

(2) Extract from the testimony of P. J. GARRETT:

> "Next witness, P. J. GARRETT, being sworn, stated that he was 40 years old, a registered phar-

macist; had lived in Union City since 1926. Graduated from the University of Tennessee in Memphis, and registered in 1925. Had filled 18 to 20 prescriptions a day for the Evans Drug Store since 1935, and it was not uncommon to fill a prescription for morphine sulphate for twenty quarter-grains for all the doctors in Union City, and to deliver the narcotic to the person with the prescription."

Quotations from "Drug Addicts Are Human Beings."

"Doubtless similar comment ('We pay no attention to the Linder decision') had been made in many other Federal courts. For the matter of that, I have elsewhere recorded that an equivalent disavowal of the cogency of the Linder decision was once made to me, in person, in the presence of Assistant Attorney General Joseph Keenan, by a Mr. Fisher who was presented to me as the narcotics specialist of the Department of Justice." (P. 201.)

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"The 'experts' in question are, as a matter of course, employes of the Department of Justice. I chance to have had personal contact with one of these 'experts' in the office of the Attorney General of the United States. And I was by him assured, in the presence of Assistant Attorney General Joseph B. Keenan, that the Linder decision of the Supreme Court (which denied Federal control over the practice of medicine) had been rescinded by later decisions." (P. 208.)